

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TERRENCE ROBINSON,

Plaintiff,

v.

FOUR UNKNOWN AGENTS

OF THE FBI, et al.,

Defendants.

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No. 4:19-cv-175-JCH

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. For the reasons explained below, this action will be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

The background of this case is fully set forth in this Court's April 16, 2019 order. However, following is a brief recitation. Plaintiff, an inmate at the St. Louis City Justice Center, commenced this civil rights action on February 6, 2019. He sought and was granted leave to proceed in forma pauperis. Upon initial review of plaintiff's complaint, the Court determined that it was subject to dismissal because plaintiff failed to state a viable claim against the two identified defendants, and failed to allege sufficient facts to permit the identification of the fictitious defendants following reasonable discovery. The Court entered an order directing plaintiff to file an amended complaint to cure the defects. In so doing, the Court fully explained why the complaint was subject to dismissal, gave plaintiff clear instructions about what was expected, and cautioned him that, if he failed to timely comply with the order, the Court would dismiss this case without further notice.

Plaintiff's response was due to the Court on May 16, 2019. However, to date, plaintiff has neither complied with the Court's order, nor sought additional time to do so. Plaintiff was

given meaningful notice of what was expected, cautioned that his case would be dismissed if he failed to timely comply, and given ample time to comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to comply with this Court's April 16, 2019 order and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so), *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS FURTHER ORDERED that plaintiff's Motion to Appoint Counsel (Docket No. 2) is **DENIED** as moot.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 23rd day of May, 2019.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE